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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,646	08/28/2001	Melba Delaine Self	006910.2500	4509
24735	7590	06/16/2004	EXAMINER	
BAKER BOTTS LLP C/O INTELLECTUAL PROPERTY DEPARTMENT THE WARNER, SUITE 1300 1299 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004-2400			BARFIELD, ANTHONY DERRELL	
			ART UNIT	PAPER NUMBER
			3636	
DATE MAILED: 06/16/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,646

Applicant(s)

SELF, MELBA DELAINE

Examiner

Anthony D Barfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/23/04 and 2/2/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,5 are rejected under 35 U.S.C. 102(b) as being anticipated by Gilbert. Gilbert shows the use of a chair cover comprising: a first cover surface (12); a second cover surface (28); and a non-elastic flap (30) attached to the second cover surface, wherein the non-elastic flap and the second cover surface form a pocket therebetween (col.2 lines 14-15), and the pocket is adapted to be **disposed** over a chair (as shown in Figure 2), and wherein the non-elastic flap has a first edge and a second edge and the second cover surface has a first edge and a second edge and the attachment of the first edge and said second edge of the non-elastic flap directly to the corresponding first and second edges of and the second cover surface (col. 2 lines 10-12) forms a pair of substantially square corners (see Fig. 2), and the square corners substantially retain their shape when the pocket is disposed over the chair independent from a shape of the chair. Gilbert shows the use of a plurality of ties (34, 36) attached to the second cover surface.

3. Claims 1-5, and 7-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Silvestri. Silvestri shows the use of a chair cover (10) comprising: a first cover surface (the upper surface); a second cover surface (the rear surface); and a non-elastic flap (30) attached to the second cover surface via the tucks (32), wherein the non-elastic flap and the second cover surface forms a pocket therebetween (Fig. 1), and the pocket is adapted to be **disposed** over an

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upper portion of a chair (as shown in Figure 1), and wherein the non-elastic flap has a first edge and a second edge and the second cover surface has a first edge and a second edge and the attachment of the first edge and the second edge of the non-elastic flap directly to said corresponding first and second edges of and the second cover surface forms a pair of substantially square corners (or tucks (32)), and the square corners substantially retain their shape when the pocket is disposed over the chair independent from a shape of the chair. Applicant is reminded that a tuck is permanently fixed to hold its shape, i.e. as in the case of a hem which is a form of tuck. Silvestri shows the use of a plurality of ties (18, 20) attached to the second cover surface. A portion of the first and second surface the covers will inherently be retained within the pocket, upon folding of the cover into the pocket prior to inserting it within the tote bag. A side pocket (14) is attached to the second surface.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 11, and 14 have been considered but are moot in view of the new ground(s) of rejection.

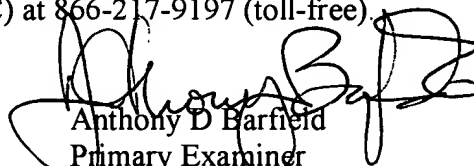
Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference Nos. 6,135,635 and 6,616,225 shows another chair cover.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Barfield whose telephone number is 703-308-2158. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anthony D Barfield
Primary Examiner
Art Unit 3636

adb
June 12, 2004